

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 00-0114P
Income Tax
Calendar Year Ended 1997**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. Tax Administration – Interest

Authority: IC 6-8-1-10-1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer, an Indiana corporation, protests the penalty assessed for the year ended December 31, 1997. Taxpayer filed its original return on October 14, 1998 with a payment of \$95,526 in tax due. The late payment generated a ten percent (10%) penalty and updated interest.

Taxpayer also protests the interest computation and states that interest should be calculated from the date of tax due to date of payment. Liability number 97-056366 was issued on December 27, 1999 for a balance due of \$14,059.27 because the taxpayer failed to include the late payment penalty and updated interest on its return.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed because its tax advisor calculated the estimated tax liability incorrectly.

The penalty was assessed because less than ninety percent (90%) of the expected tax due was not paid by the original due date.

IC 6-8.1-6-1 clearly states that at least ninety percent (90%) of the tax that is reasonably expected to be due must be paid on or before the due date or penalties may be imposed for failure to pay the tax. Fourteen percent (14%) of the tax due was paid after the due date which incurs a late payment penalty.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty. Ninety percent of the tax due was not paid by the due date of the return.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Interest

DISCUSSION

Taxpayer protests the interest assessed on Liability 97-0566366 and states the calculation is in error as interest is to be calculated from the due date of the return to the actual date the final tax liability was paid.

Taxpayer did not consider that the payment is first applied to penalty, interest, and then the tax, thereby interest continues to accrue on the balance due.

The balance due on liability number 97-0566366 dated December 27, 1999 includes interest from the date the payment was due. According to Indiana Code, payment is first applied to penalty, interest, and then the tax. Interest continues to accrue until final payment is made.

In addition, the final payment in the amount of \$95,526 was not made until October 15, 1998. Interest is calculated at \$ 3,352.57 from April 16, 1998 to October 15, 1998. Interest is also calculated from April 16, 1998 for the \$9,552.55 penalty that was not paid with the return. The payment made with the return was first applied to penalty, interest, and tax.

FINDING

Taxpayer's protest is denied

CONCLUSION

Taxpayer's protest is denied for Issue I. and II.